

LANI ADLER PARTNERS

(646) 732-3260 ♦ ladler@laniadlerpartners.com

By ECF

September 19, 2023

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Honorable Mary Kay Vyskocil, United States District Judge
Southern District of New York
500 Pearl Street, Room 2230
New York, New York 10007

Re: *Stephanie Clifford a/k/a Stormy Daniels, and Stormy Entertainment, Inc. v. Lucas Janklow and Janklow Partners, LLC d/b/a Janklow & Nesbit Associates*, Case No. 1:22-cv-01259-MKV

Dear Judge Vyskocil:

This firm represents the Defendants in the above-captioned action, in which, following the Court's partial grant of Defendants' motion to dismiss, a single claim remains for breach of contract. Each party has stated to the Court that it intends to move for summary judgment.

Pursuant to the Civil Case Management Plan and Scheduling Order, ECF No. 51, depositions are to be concluded in this case by September 29, 2023 – ten days from now. To comply with this deadline, Defendant served a request for production of documents on August 10, 2023, immediately after this case was restored to the Court's calendar, following the parties' failure to finalize a settlement agreement.

On September 11, 2023, which was a Monday, I emailed Plaintiff's counsel requesting it to provide me by the following Thursday with dates on or before September 29, 2023, for Ms. Clifford's deposition. Counsel said it could "check on" dates but would not have them by that Thursday. On September 15, 2023, the next Friday, I again emailed counsel asking for dates to be provided to me that day so I could timely schedule a deposition on a date convenient for the witness. Again, Counsel did not provide dates.

Yesterday, September 18, 2023, in accordance with the Court's Individual Rules of Practice, I called Counsel to confer in order to confer in good faith to resolve this to avoid having to raise it with the Court. To date, Counsel has not provided any possible dates for Ms. Clifford's deposition, though there now remains a ten day window in which to complete depositions.

Accordingly, I write, pursuant to the Court's Individual Rules, in order to raise this and seek relief in sufficient time to obtain a ruling in advance of the cut-off for depositions.

While Mr. Fortney has indicated that he and his colleague, Mr. Brewster, have been on trial, it is inconceivable that neither nor someone else in the firm's staff has yet communicated with Ms. Clifford about deposition dates or been able to get back to me with specific dates — especially in view of counsel's obligation to comply with the Court-ordered discovery schedule.

I now respectfully ask the Court either to order Ms. Clifford's deposition to take place on September 28, 2023, beginning at 10 am EST, and if necessary, I am prepared to take it remotely, or in the alternative, to impose on Plaintiff sanctions pursuant to Federal Rule of Civil Procedure 30(d), Rule 37(b), Fed. R. Civ. P., and/or 28 U.S.C. §1927, including precluding Plaintiff's introduction of any testimony by Ms. Clifford other than what she has provided under oath in the criminal trial of Michael Avenatti in opposition to Defendant's summary judgment motion, in support of any motion Plaintiff may make and/or at the trial of this case.

Respectfully submitted,

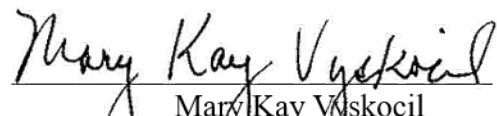
/s/Lani Adler

Lani Adler

cc Guy Fortney, Esq. (by ECF)
Clark Brewster, Esq. (by ECF)

Pursuant to the Civil Case Management Plan and Scheduling Order entered June 2, 2023 [ECF No. 51], the parties may extend interim discovery deadlines without application to the Court, provided that all fact discovery is completed by October 31, 2023. Accordingly, the Court finds Defendants' request premature. The parties are directed to confer in good faith to extend the deposition deadline so that Ms. Clifford's deposition is scheduled and completed prior to the current October 31 fact discovery deadline. The Court cautions that Ms. Clifford, as Plaintiff, is obligated to give a deposition and her failure to comply with her discovery obligations and/or to comply with Court orders may result in sanctions, including monetary sanctions, preclusion of evidence (including her testimony) on summary judgment or at trial, and/or dismissal of claims. SO ORDERED.

Date: 9/21/2023
New York, New York


Mary Kay Vyskocil
United States District Judge